

ISLAM

**BETWEEN IGNORANT FOLLOWERS
AND
INCAPABLE SCHOLARS**

by
Abdul Qadir Audah Shaheed

In the Name of Allah the Merciful the Compassionate

PREFACE

Glory be to Allah who taught man how to read and revealed to him what was unknown to him. And may peace be upon Muhammad, the unlettered Prophet, who was chosen by Allah to invite and educate people to the way to Allah, Who says:

"There has now come to you a light from Allah, and a clear Book through which Allah shows to all who seek to please Him the paths leading to safety. He brings them out, by his leave, from darkness to light and directs them on to the straight way."
(*Al Maidah-16*)

It is painful to a Muslim to see his fellow Muslims going from bad to worse, getting weaker and more ignorant every day, not realizing that the real reason behind that deterioration is their ignorance of the system of *Islamic* jurisprudence and their negligence in applying it, not withstanding its perfection and excellence.

They are not aware that their tenacious adherence to defective secular laws has spoiled their lives and brought upon them their present weakness and humility.

I do believe that we deserted the *Islamic* Jurisprudence owing to our ignorance of its implications and the failure of our canons of religion to, or their incapability of, educating us in it. Had every Muslim known his obligations towards the religion, he would not have failed to fulfil them. In fact,

every Muslim would have rushed forward to serve its cause and apply its principles.

I think that the best service a Muslim can render to his brethren is to educate them in Islamic jurisprudence and to reveal to them those precepts which they do not know.

I am writing this concise essay in which I have gathered those necessary principles of Islamic law, that every educated Muslim should know, showing the correct views about the issues which have been demeaned by certain ignorant people, who advanced unfounded illogical allegations about them. I hope that this booklet would help to rectify some of our Islamic precepts which are misunderstood by those who have received secular education. I hope as well that it would persuade our Islamic scholars to change their approach and adopt a new method for serving the cause of Islam. After all, they are the successors of the Prophets and the followers of The Messenger of Allah.

May Allah guide us all toward the right way.

The Author

CONTENTS

Chapter I

What a Muslim Should Know

Principles of Islam	7
Islamic Jurisprudence for Secular and Spiritual Life	8
Laws of Jurisprudence are Indivisible	11
Islamic Jurisprudence is Universal and Divine	13
Islamic Jurisprudence is Perfect and Permanent	13
Comparison between Initiation of Islamic and Non-Islamic Jurisprudence	15
Peculiarity of Islamic Jurisprudence	15
Basic Differences	16
Advantages of Islamic Jurisprudence over laws	19
Method of Legislation	20
Rulers' Rights of Legislation	21
Rulers Exceeding their Limits	21
Do Rulers Act within their Limits?	22
Effect of Law on Islamic Jurisprudence from Practical Point of View	23
Effects of Laws on Jurisprudence from the Theoretical Point of View	25
Conflict Between Laws and Jurisprudence	26

Chapter II**Muslims' Knowledge of their Jurisprudence**

The Uneducated	33
The European-Educated	34
Islam & Politics	37
Second Objection: Jurisprudence Incompatible with Modern Age	42
Third Objection: Some Provisions are Partly Temporary	48
Fourth Objection: Some Provisions are Inapplicable	49
Fifth Objection: Islamic Jurisprudence Dependent on Jurists' Views	50
The Islamically-Educated	54
Who is Responsible for our Condition?	58
Responsibility of the Masses	58
Responsibility of Muslim Governments	59
Responsibility of Heads of State	60
The Responsibility of Muslim Scholars	63

Index

The Quranic Verses	71
--------------------	----

CHAPTER I

WHAT A MUSLIM SHOULD KNOW

We, Muslims, take pleasure in belonging to Islam and are proud of it. Yet, unfortunately, we do not know its most important injunctions and neglect its major issues.

Principles of Islam

By principles of Islam is meant the doctrines and theories inscribed in the Qur'an and established by the Prophet, *Sallallahu Alaihi Wasallam*. The whole of these doctrines and theories is called the "Islamic Jurisprudence". Thus, Islamic jurisprudence is the totality of principles enacted by Islam in the disciplines of Divine unity, faith, worship rituals, personal status, crimes, civil transactions, administration, politics and all other areas and trades.

The main principle in Islam is to apply its laws and ordinances as there is no point for it to exist unless people know its principles, perform its rituals and enforce its laws. Accordingly, one who neglects the enforcement of the Islamic jurisprudence or restrains it, would be neglecting and curtailing Islam itself.

Islamic Jurisprudence for Secular and Spiritual Life

Islamic laws and rules are of two categories. The first consists of commandments set down for religious and spiritual purposes. These include the rules of faith and worship. The second category comprises of the rules and laws administering and organizing the State, the government and the community, as well as the relations between individuals and their communities. These include the rules of human behavior, penal laws, laws of civil status, constitutional laws, international laws, etc. Thus, Islam unifies the secular and the spiritual, the Mosque and the State. It is a religion that embraces spiritual and secular life simultaneously. As faith and belief are one part of Islam, the government is the second integral part; one can dare say it is the more important part. The third caliph Othman Ibn-Affan had truly expressed this fact by saying : "God urges by the ruler what may not be urged by the Qur'an".

The numerous and diversified rules of Islam were meant to help people attain happiness in this world and in the Hereafter. Hence, all secular activities have their relevance to worship. Any worship or civil, penal, constitutional or international act has its repercussions on this worldly life, which might be the fulfilment of a task, the establishment of a right or nullification of it, the imposition of a penalty, or incurring a responsibility. Yet, such an act which has its effects in mundane life, has another consequence in the celestial life, i.e., the reward in the Hereafter.

As jurisprudence is meant to be the means of making people happier in this world and in the after-life, it follows that jurisprudence must be considered indivisible, or an integral whole, because adopting a part thereof and dropping the other part would not be conducive to the achievement of its objectives and purpose. Any perusal of Qur'anic texts containing these laws and rules reveals that

any violation of them invokes two sanctions : one secular and the other celestial. For instance, a brigand is punished by death or by chopping off some of his limbs, or by crucifixion or exile—all these are mundane penalties to be added to heavy punishment in the Hereafter. God says :

"Those who wage war against Allah and His Messenger, and go about the earth spreading mischief—indeed their recompense is that they either be done to death, or be crucified, or have their hands and feet cut off from opposite sides or be banished from the land. Such shall be their degradation in this world; and a mighty chastisement lies in store for them in the world to come."

(Al-Maidah-33)

Similarly scandalous talebearing and accusation of chaste women are punishable in this world and the Hereafter. God says :

"Verily, those who love to propagate scandal crime among believers will have a painful penalty in this life and in the Hereafter."

(An-Nur-19)

And Again :

"Those who charge with slander those Believing women, who are chaste but simple souls, are accused in this world and in the Hereafter; there is a great punishment for them. They should not forget the Day when their own tongues and their own hands & feet will bear testimony in regard to their misdeeds. On that Day Allah will give them the full recompense they deserve, and they will realise that Allah is the very Truth, who makes the Truth manifest."

(An-Nur 23-25)

Intentional murder has two penalties : retaliation in this world and torture in the Hereafter. God says :

"Believers ! Retribution is prescribed to you in cases of killing."

(Al-Baqarah- 178)

And :

"And he who slays a believer wilfully his reward is Hell, where he will abide."

(An-Nisa-93)

We can hardly find a judgment in accordance with Islamic jurisprudence without entailing a consequent penalty in the Hereafter. If we ever meet with such few cases, these are qualified by God's saying :

"Is then he who is a believer like him who is disobedient to Allah? Not equal are they. As for those who believe in the oneness of Allah and do righteous good deeds, for them are gardens as an entertainment, for what they used to do. And as for those, who are disobedient to Allah, their abide will be the fire; every time they wish to get away therefrom, they will be put back thereto and it will be said to them, Taste you the torment of the Fire which you used to deny."

(As-Sajdah-18-20)

And :

"Allah will make the man who obeys Allah and His Messenger enter the Gardens beneath which rivers flow. He will abide there for ever. That is the mighty triumph. And he who disobeys Allah and His Messenger and transgresses the bounds set by Him—him shall Allah cause to enter the Fire. There he will abide. A humiliating Chastisement awaits him."

(An-Nisa-12-13)

Such laws for both secular and religious conduct have not been haphazardly legislated. They are, in fact, a result of the general logic of Islamic jurisprudence, which considers this world principally a trying, evanescent abode, while the Hereafter is the eternal and rewarding abode. It assumes that man is responsible for his deeds in this world and shall always have his recompense for the same at least in the Hereafter. If, he does good, it is for his own credit, and if he does bad, he shall pay for it. But suffering a penalty in this world does not commute or abolish that of the Hereafter, unless man repents.

Islamic jurisprudence is distinct from manmade legislation in that it blends religion with secular deeds and promulgates precepts for this worldly life and for the life Hereafter. This is the reason that urges compliance with its

teachings in the public and private life of Muslims; during at prosperity and duress. Muslims, according to their jurisprudence, believe that such response is a phase of worship which brings them nearer to their God, and that they shall be rewarded for it. Those who are in a position to make mischief being caught and punished would abstain from such deeds for fear of punishment in the Hereafter and in order not to provoke the anger of God upon themselves. Such a belief helps in curtailing crimes and maintaining security and order in society. This is contrary to the case where man-made legislation is in force. Their laws do not touch upon the conscience of the concerned individuals, as they do not obey these laws except for fear of being penalized in accordance with the prescriptions of these laws alone. Thus, if somebody is capable of committing a crime without being subjected to legal prosecution, he would have no restraint, either moral or religious, to stop him from doing it. That is a reason why in countries applying man-made legislation, crimes are progressively increasing, morals are degenerating and criminals among the educated are more frequent. The increase of crime among the educated is due to the prevalence of their moral disintegration and because such classes are more capable of evading the laws than others.

Laws of Jurisprudence are Indivisible

All laws issuing from Islamic jurisprudence are indivisible and inseparable, not merely because their disjunction vitiates the objectives of Islam, as aforementioned, but also because there are explicit jurisprudential injunctions that prohibit people from adopting some laws, or believing in them, while neglecting or denying the other laws. In truth, the injunctions necessitate the application of all the laws and the absolute belief in all that is implied by the entire system of Islamic legislation. Any deviation from such comprehensive compliance would be subject to Divine indictment :

"Do you believe in a part of the scripture and reject the other? What else, then, could be the retribution of those among you who do this than that they should live in degradation in the present life, and that on the Day of Resurrection they should be sent to the severest chastisement."

(Al-Baqarah-85)

There are many verses of Qur'an which forbid the compliance with part of Divine legislation, while dropping the other part. Here are some of them :

"Those who conceal anything of the clear teachings and true guidance which we have sent down even though we have made them clear in our Book, Allah curses such people and so do all who curse; but those who repent and make amends and openly declare (what they had concealed), such shall I pardon for I am Much-relenting, Most-compassionate."

(Al-Baqarah-159-160)

"Conceal" in this context means to comply with some laws but not with others; admitting some while denying others. And again, God says :

"Those who conceal anything of the Book sent down by Allah and sell it away for a trifling gain are merely filling their bellies with Fire. Allah will neither address them on the Day of Resurrection, nor shall He pronounce them pure. A painful chastisement lies in store for them. They are the ones who bought error in exchange for true guidance, and chastisement in exchange for forgiveness. How patient they are in enduring the Fire!"

(Al-Baqarah-174-175)

"So do not fear men but fear Me, and do not barter away my signs for a trivial gain. Those who do not judge by what Allah has revealed are indeed the believers." *(Al-Maidah44)*

"These are those who disbelieve in Allah and His Messengers and Seek to differentiate between Allah and His Messengers and say; 'We believe in some and deny others, and seek to strike away between the two.' It is they, indeed they, who are beyond all doubt, unbelievers."

(Al-Baqarah-150-151)

"Then we revealed the Book to you (O Muhammad!) with Truth, confirming whatever of the Book was revealed before, and protecting and guarding over it. Judge, then, in the affairs of men in accordance with the law that Allah has revealed, and do not follow their desire in regard of the Truth which has come to you....." (Al-Maidah-48)

"Therefore, judge between them (O Muhammad!) by what Allah has revealed and do not follow their desires, and beware lest they tempt you away from anything of what Allah has revealed to you. And if they turn away, then know well that Allah has indeed decided to afflict them for some of their sins. For surely, many of them are transgressors. (If they turn away from the law of Allah) do they desire judgement according to the law of ignorance. But for those who have certainty of belief whose judgement can be better than Allah?" (Al-Maidah-48-50)

Islamic Jurisprudence is Universal and Divine

Islamic jurisprudence is characterized by its unique universality and comprehensiveness. It was sent by God to His Apostle, Muhammad *Sallallahu Alaihi Wasallam* for the propagation of Islam among all peoples, Arabs and non-Arabs, Easterners and Westerners, from every walk of life irrespective of their customs and history. It is a system of legislation relevant to each family, each tribe, each community, each State and, in fact, it is the universal legislation which human canons of law could perceive but could not make, God says :

"(Say, O Muhammad) : O men! I am Allah's Messenger to you all—of Him to whom belongs the dominion of the heavens and the earth." (Al-A'raf-158)

"He it is who has sent His Messenger with guidance and the true religion that He may make it prevail over all religions."

(At-Tawbah-33)

Islamic Jurisprudence is Perfect and Permanent

God has sent this jurisprudence, complete and comprehensive, as it is, in a short period of time, starting

from the first day of the Prophet's mission, and ending on the day of his death, or on the day when the following verse was revealed :

"This day I have perfected for you your religion, and have bestowed upon you My bounty in full measure, and have been pleased to assign for you Islam as your religion."

(Al-Maidah-4)

This verse is the authoritative pronouncement relative to the perfection and permanence of the jurisprudence, especially since another verse has expressly stipulated that Muhammad *Sallallahu Alaihi Wasallam* is the last prophet :

"Muhammad is not the father of any man among you, but he is the Messenger of Allah and the end of the prophets."

(Al-Ahzab-40)

If one scrutinizes the rules and laws of Islamic jurisprudence, one becomes satisfied that they are complete, without defect. They embrace and organize matters concerning individuals and societies, the personal status, dealings and all sorts of private transactions, government and administration, political affairs as well as other matters concerning nations and their relation with others during war and peace.

Islamic jurisprudence was not revealed for limited application to a specific age (and not any other). It is a system of legislation for every age and time. It is forcefully valid and shall continue to be so till the end of this life on earth. Its injunctions were coined in such a manner that they are not affected by the lapse of time. They do not become obsolete, nor do their general principles and basic theories need to be changed or renovated. Their generalized construction and elasticity allows even for bringing under their jurisdiction any unprecedented new case, even though it was not possible to expect its occurrence at the beginning of revelation. Hence, the provisions of Islamic jurisprudence are not susceptible to change or substitution as are other laws and legislation.

Comparison between Initiation of Islamic and Non—Islamic Jurisprudence

We have already indicated how Islamic jurisprudence was initiated. Man-made laws are gradually enacted in a society to administer and organize activities and behavior in society as they exist at that time. They are restricted by the current needs of individuals and societies, and they change in accordance with the evolution of the society. The more intellectually advanced the society become, the more need for new laws is felt. This new legislation is usually enacted by those individuals ruling over the society. It is they who rectify and change laws; thus it is representative of the society that creates the laws and enacts them in view of meeting its own requirements. It follows that such laws become subordinate to man and that their evolution depends on him.

According to jurists, law developed with the establishment of the family in early ages; evolved on formation of the tribe, developed with the institution of the state, and finally came to the last stage by the end of the eighteenth century and was greatly influenced by the new philosophical and sociological theories of that time. Since then, man-made law has undergone a tremendous evolutionary change, so much so that it is based now on principles and theories that were inconceivable to previous ages.

Peculiarity of Islamic Jurisprudence

Having reviewed the institution of both Islamic and man-made jurisprudence we can rightly say that the nature of the two is quite different from each other. If Islamic jurisprudence were similar in its nature to normal laws, its form and substance would not have assumed the characteristics mentioned above. In fact, it would have been a primitive set of laws necessitating periodic evaluation. Nor could it have contained such modern concepts and

theories as were known until recently, and which would have taken thousands of years of development to reach its present standard.

Basic differences

Islamic jurisprudence differs from man-made laws in three aspects:

First : Islamic jurisprudence is inspired by God, while other laws are made by men. Each constituent of Islamic legislation reflects with clarity the attributes of its author. Man-made laws bear the limitations, weaknesses and shortcomings of human beings, and accordingly, their laws are always susceptible to modifications and change, or to what we call legislative evolution in response to a certain degree of social evolution which had not been apprehended by those who organize the affairs of human societies. Both sets of laws have the same objectives, but Islamic laws are not subject to change or substitution. Logically speaking, this peculiarity necessitates :

- a. That the principles of legislation as well as the text of provisions must be of such elasticity and universality that they would encompass all the requirements of human society regardless of the lapse of time, societal evolution and the multiplicity and diversification of human needs.
- b. That these principles and texts must be so perfect and comprehensive that they would not fall short in matching the standard of the society at any point in time.

In truth, the above logical requirements are inherent in Islamic jurisprudence, and its principles and provisions are universal and elastic to the extreme, and are absolutely far-reaching and perfect. This jurisprudence has been in existence for more than thirteen centuries, during which conditions have changed more than once, ideas and

sciences have greatly evolved, indus-laws. Law is subject to change again when new incidents, not known beforehand, take place. Thus, law is permanently defective, incomplete and never perfect and cannot predict the future, though it may comprehend the past.

On the other hand, Islamic jurisprudence is God-made. It bears the mark of His omnipotence, His perfection, His magnanimity and His illimitable knowledge of all that is in being. That is, it was compiled by the All-knowledgeable, the All-capable God in such a manner that suits present and future contingencies alike.

Second : Laws are temporary rules enacted by the society to administer its current affairs and meet its proximate needs. Thus, they are actually behind the standard of advancing societies, or at the best, they are at the same standard on their date of issue. Of necessity, they become backward after a while as long as they do not change quickly to catch up with the evolution of society. Temporarily, laws would suit the conditions of the society at or for a certain time, but they would have to be changed whenever conditions change.

By contrast, Islamic jurisprudence is the totality of permanent rules originated by God to tries and discoveries have developed beyond imagination and principles and rules of man-made laws have been frequently altered for the purpose of adjusting themselves to the novelties of progress with its diversified conditions and circumstances. This continuous modification has gone on for so long, that the present principles of human legislation are completely different from those prevailing when Islamic jurisprudence was inspired. Despite this great change, the Islamic principles of jurisprudence, owing to their excellence, continued to be applicable and proved to be in advance of any social standard at any time, most appropriate to man's instincts and most reliable in maintaining his security.

This magnificent fact is attested by historical realities to the credit of Islamic jurisprudence. Qur'anic injunctions are still more convincing when viewed from this perspective. God says :

"....And take counsel for them in matters of importance."

(Al-e-Imran-159)

And :

"...Who conduct their affairs by mutual consultation"

(As-Shura. 38)

And :

"Help one another in acts of righteousness and piety, and don't help one another in sin and transgression."

(Al-Maidah-2)

The Prophet says ; " Islam forbids harming others and oneself." These statements from the Qur'an and the Traditions show the extent of generality and elasticity which one cannot go beyond. They establish the principle of consultation as the basis for government so that no harm or enormity could possibly be inflicted on the community and where cooperation for doing the good and righteous deeds could be realized. By such principles, Islamic jurisprudence has reached a more exalted level of perfection than man can ever attain.

Third : The objective of the jurisprudence is to organize and direct the society, to cultivate the right kind of individual and to establish the ideal state and the ideal world. Because of this, its provisions were much more in advance of the standard of societies at the time they were inspired. They are still ahead of our contemporary conditions. They entailed principles and theories that non-Islamic communities had never had the opportunity to know or realize except after long centuries of work and experience. But God saved the searching humanity of much unproductive strain by revealing this jurisprudence, which is exemplary in perfection, with a view toward orienting people to good

deeds and virtues and toward achieving exaltation and human perfection as people endeavored to attain the noble standard required by His jurisprudence.

Laws were originally enacted to organize the functions of society, but not to guide or pilot it. This explains our statement that laws fall behind the development of society. Laws have assumed the new function of guiding society and organizing it simultaneously only when states have started adopting new doctrines and have resorted to legal amendments as a means to orient their peoples towards specific ideas and the achievement of certain purposes. This is the situation in Russia, Turkey, Germany, Italy and many other countries. In this way, man-made laws have finally come to acquire the determinant functions assumed by Islamic jurisprudence thirteen centuries ago.

Advantages of Islamic Jurisprudence over laws

We may deduce from the above that Islamic jurisprudence has three main advantages over man-made legislation :

1. **Perfection** : Islamic jurisprudence has the advantage of perfection over man-made laws. By this it is meant that it entails all that a perfect and complete legislature may require in the way of judicial decisions and concepts necessary to meet the needs of human societies at present, and in the near as well as the remote future.
2. **Excellence** : The principles of Islamic jurisprudence are always above the social standards of societies, while by virtue of their intrinsic contents, they maintain their excellence, however much standards may rise.
3. **Permanence** : Islamic jurisprudence, unlike man-made laws, is distinguished by its immutability, as its fundamental provisions are not subject to

modification. Nevertheless, these provisions continue to be peerlessly appropriate in every society and in every age.

Method of Legislation

Islamic jurisprudence was originally structured by Allah for the purpose of administering the activities of people in their different phases, and to be the arbiter in all their secular and spiritual affairs. However, Islamic jurisprudence did not include detailed provisions for partial and subsidiary matters as is the case with man-made laws, but achieved sufficiency by giving Divine statutes in elastic general terms and provisions. Even when a subsidiary provision was mentioned, it was because the issue in question was considered a principal one, entailing some other minor questions thereunder.

The principal injunctions stipulated by Islamic jurisprudence are rightly considered the general precepts of Islamic legislation, its image that reflects its characteristics and its landmark that defines its scope. It was left to the jurists and legislators to build up the legal structure on these foundations and in accordance with these broad regulation enacting legislation for the details and subsidiary issues within the circumference of the Islamic principles of jurisprudence.

There was only one way of legislation open for Islamic jurisprudence to be consistent with itself and to preserve its characteristic excellence, perfection and permanence. Excellence and perfection require clear texts defining the principles and doctrines which enshrine prosperity and happiness for society, and which bring about justice, equality and benevolence among individuals, thus exhorting them to contend for progress and excellence. Permanence, by definition, requires that no provision would be set for a temporary case which would be adjudged differently whenever circumstances differed.

Rulers' Rights of Legislation

Though Islamic jurisprudence confers upon the ruler the right to legislate, this right is not absolute. In fact it is a right restricted to this condition : that whatever the ruler may legislate, must be compatible with the text, spirit and general principles of Islamic jurisprudence. Consequently, such a restriction confines the right of legislation to two categories :

- a. **Executive legislation**, Intended to guarantee the implementation of the provisions of Islamic jurisprudence. In this case, legislation takes the shape of rules and regulations similar to those presently issued by government officials in the course of their daily responsibilities, for the purpose of ascertaining the execution of the relevant laws.
- b. **Organizational legislation**, intended to organize the society, protect it and meet its needs in accordance with Islamic jurisprudence. Generally, such legislation is not called for except in such cases where there are no relative provisions in jurisprudence, administering them. In any circumstances legislation by rulers must be in harmony and in agreement with general principles and the spirit of the original jurisprudence.

Rulers Exceeding their Limits

It is the consensus that all acts of the ruler are legitimate so long as they are within the framework of Islamic jurisprudence and compatible with its judicial decisions and spirit. Then, and only then, would the ruler be acting within his rights and accordingly, should be obeyed. However, if he acts otherwise, issuing laws which contradict the jurisprudence his acts or laws become illegitimate and objectionable. This statement is based on the Qur'anic verses :

"Believers ! obey Allah and obey the Messenger, and those from among you who are invested with authority; and then if you were to dispute among yourselves about anything, refer it to Allah and the Messenger." (An-Nisa-59)

"And in whatsoever you differ, the decision there of is with Allah." (As-Shura-10)

Thus, Allah imposes on us obedience to Him, His Apostle and our rulers. Such obedience is commanded by Him alone, not by the Apostle nor by the rulers; and thus, if the rulers contravene the injunctions of God, they cannot command any loyalty over us nor expect our obedience. Their rule and authority then become illegitimate.

The Apostle (peace be upon him) has confirmed this implication by saying : "No obedience shall be observed by created (beings) to those who command disobedience to God." And again : "He who commands you to sin, has no authority over you."

Do Rulers Act within their Limits ?

In most of the Islamic countries, since the last century, rulers have been formulating codes of laws in the various legislative matters on the same pattern as that followed by European countries. As a matter of fact, they copied European constitutional, criminal, civil, commercial and other codes without reference to Islamic jurisprudence except in a few minor matters such as Waqf and the like.

It is only fair to admit that many of these codes do agree with the basics of Islamic jurisprudence and do not contravene its general principles. But it is only fair as well to state that some of these codes run contrary to our jurisprudence and have been established on principles opposed to it. For instance, certain of the said codes allow adultery in most cases and consumption of alcoholic beverages while Islam categorically prohibits both.

Here, I should like to draw attention to those Muslim countries which voluntarily opted for European legislation.

These countries had no intention whatsoever of contradicting Islamic jurisprudence. There is no better proof of this than the Egyptian penal law decreed in 1883, in which Article I stipulated :

“It is the prerogative of the Government to punish the crimes inflicted upon individuals on account of perturbing public security caused by such crimes. Crimes committed against the Government directly are likewise punishable. Accordingly, this law has specified the degrees of penalties which legitimate rules are entitled to impose, but without prejudice, at any rate and in any case, to the individual rights as inscribed in Islamic jurisprudence.”

This text was copied from the Turkish law enacted in 1853.

I should like to add that in my opinion, rulers in the majority of Muslim countries, whether in the past or at present, never thought of contravening Islamic jurisprudence. Nevertheless, many of the laws of such countries were formulated contrary to the principles of Islamic jurisprudence, despite the inclination of the rulers to do otherwise. The reason for this paradox is that the authors of such laws were either Europeans completely alien to the dictates of Islamic jurisprudence, or Muslims who studied European law but never made themselves familiar with Islamic law.

Effect of Law on Islamic Jurisprudence from Practical Point of View

Consequent to the introduction of European law to Muslim countries, special courts were established. The judges of these courts were appointed from among Europeans or indigenous scholars who had never studied Islamic Jurisprudence. The new courts considered themselves entitled to assume jurisdiction over all kinds of litigation; a jurisdiction which, practically speaking, left

inoperative and neglected the analogous decisions of Islamic jurisprudence, especially since the newly-formed courts did not apply any but their own laws.

Besides, educational authorities have established special schools to teach the new philosophies of law. Naturally, such schools gave full attention to the study of the European codes, neglecting Islamic jurisprudence, except in the instance of a few matters such as Waqf. This attitude led to a lamentable end, inasmuch as nearly all the jurists, who were among the elite of the educated, were kept ignorant of the principles of Islamic law. It is lamentable because this ignorance is equivalent to their ignorance of the jurisdiction and rules of their religion, which is the religion of all countries claiming to be Islamic.

This same ignorance led to the introduction and integration of the meager provisions cited from European laws, though these were diverse from the implications of Islamic jurisprudence, in some cases. For instance, the Egyptian penal law stipulated that all its provisions should be applied without prejudice in any way to the rights of individuals as established by Islamic jurisprudence. But despite this express proviso, Egyptian jurists felt no need to acquaint themselves with the details of the rights declared by Islam. They confined their competence in the study of individual rights to what was inscribed in the French legal system and to what the French jurists have expounded, validating them on the same legal foundation as did the French. Egyptian jurists went far in this direction, being influenced by two factors :

First : They did not study Islamic jurisprudence and knew nothing of its principles and provision;

Second : They bound themselves by the views and precedents of the European jurists generally, and the French specifically, allowing what they allowed and prohibiting what they prohibited. It goes without saying

that the European jurists knew absolutely nothing about Islamic jurisprudence.

Effects of Laws on Jurisprudence from the Theoretical Point of View

While Islamic jurisprudence was practically rendered inoperative by the adoption of man-made laws, such laws have had no effect on the jurisprudence from the theoretical point of view. The provisions and precedents of Islamic jurisprudence are still unmatched in validity and are superbly qualified for application in all cases. There is a basic rule in both jurisprudence and laws that no provision can be abrogated except by an identical or more authoritative provision. In other words, legal provisions cannot be abrogated except by other provisions enacted by the same lawgiver, or by a body having the same legislative jurisdiction or superior jurisdiction relative to that of the initial legislator.

Therefore, the only provision which could abrogate Islamic jurisprudence would be either Qur'anic verses or the *Sunnah* (Tradition), because our jurisprudence is the totality of both the Qur'an and the Tradition of the Holy Prophet. But there can never be additional Qur'anic verses, because the revelation ended with Muhammad *Sallallahu Alaihi Wasallam*. Similarly there can never be any further Tradition, because the Prophet has already passed away. Furthermore, no one can presume to hold the enactments of our legislative bodies as equally authoritative as the Qur'an and the Tradition, and certainly no one can contend that such bodies possess the same legislative jurisdiction as that possessed by God and His Holy Prophet. All that may be said in this context is that our rulers have no legislative powers, but only executive ones, as previously indicated. Legislation is confined to God and the Prophet, and Islamic jurisprudence has already become firm and absolute, since the days of its revelation have elapsed with the passing away of the Holy Prophet and with the completion of Divine Qur'anic inspiration.

Conflict Between Laws and Jurisprudence

In those instances where there is conflict between the provision of man-made laws and the dictates of Islamic jurisprudence, the latter should be applied, and not the former, because of three compelling reasons :

First : The provisions of jurisprudence are still valid and cannot be abrogated by any means, as indicated previously; whereas the provisions of man-made law are revocable. This means that the more meritorious provisions of Islamic jurisprudence are stronger than those of man-made law.

Second : Jurisprudence adjudges that whatever runs contrary to its provisions is void and should not be heeded or observed, as explained before. To that extent, all laws contradicting jurisprudence are to be considered null and void.

Third : In accordance with the basic principles of law, all laws that conflict with jurisprudence, and accordingly are ineptly deviate from their objectives, become *per se* null and void.

How do Conflicting Laws Deviate ?

Essentially, man-made laws are set up in order to fulfill the needs of the society, to establish a certain organization within it and to provide for security and peace among its individual members. One of the paramount needs of a society is protection of its creed, faith and social order. In Islamic countries, the totality of the social order is based upon Islam, and the creed and faith of the great majority is Islam. It is then but natural that whatever laws are introduced into such a society, should completely accord with Islamic jurisprudence. Unfortunately, this is not the case with the laws presently guiding Muslim countries. As mentioned before, many of them are in conflict with Islamic jurisprudence and have thus become aberration of the principles on which laws are established and of their

objectives. Such conflicting laws lose their legitimacy altogether.

If we acquaint ourselves with the principles of Islam, we can easily understand how the very laws decreed in Europe for the purpose of realizing prosperity, security and peace among individual, can be the main caustic element producing a monstrous predicament in an Islamic society, an affront to its members that incites bitterness and acrimony in their hearts. That makes the majority antagonistic towards these laws, instigating restlessness, disturbances and chaos. To explain such an occurrence, the following points must be taken into consideration :

First : Islam prohibits every Muslim from adopting laws inconsistent with Islamic jurisprudence. Any provisions not in conformity with the texts of this jurisprudence or its general principles and spirit, are categorically prohibited by those clear precepts wherein God has indicated but two alternatives : That either people respond to God and His Prophet, i.e., follow what the Prophet has commanded, or that they follow their own desire. "And who is more astray, than one who follows his own lusts, devoid of guidance from Allah ?"

(Al-Qasas-50)

God says also :

"After this We have set you, O Prophet, upon a clear highway (of Shariah) concerning religion : So follow it, and do not follow the lusts of those who have no knowledge. They cannot avail you at all against Allah. The wrongdoers are companions of one another and the companion of the righteous is Allah."

(Al-Jasiyah -18-19)

Further :

"(O men !) Follow what has been revealed to you from your Lord and follow no masters other than Him. Little are you admonished."

(Al-A'raf-3)

Second : God does not allow a believing Muslim to accept any law other than that of God, nor any

commandment inconsistent with what He has prescribe. In fact, God has commanded the faithful Muslim to renounce any judicial decision other than His, considering the acceptance of the laws of others to be great perdition and submission to Satan. God says :

"(O Messenger !) Have you not seen those who claim to believe in the Book which has been revealed to you and in the Books revealed before you, and yet desire to submit their disputes to the judgment of taghut (the satanic authorities) whereas they had been asked to reject it. And Satan seek to make them drift away from the right way."

(An-Nisa-60)

Therefore, to seek judgment by means of legislation, apart from what God had revealed and what the Holy Prophet has ordained, is to resort to the machinations of the Evil One and to accept his verdict. In such an instance, the "Evil One" becomes anybody upon whom man may confer an estimation beyond human limitations, whether by worshipping him, by following his dictates, or by paying allegiance to him. The "Evil One" of any group of people that person to whom they resort from authoritative judgment in their disputes apart from God and the Prophet, or whom they worship and follow other than God, or obey in matters that vitiate obedience to God. Once a person believes in God, he should not defer to the decision of some one else, nor accept any judgment other than God's.

Third : God does not allow the faithful Muslim to choose, or be satisfied with, anything other than what he and His Prophet have legislated: God says :

"It is not for a believer, men or women, When Allah and His Messenger have decreed a matter that they should have any option in their decision."

(Al-Ahzab-36)

Fourth : God has commanded that all judicial decisions and statutes should be in accordance with the

Revelation, and has characterized as no better than unbelievers those who do not comply with His judgments. He has further called them wrong doers and rebels :

"...Those who do not judge by what Allah has revealed are the trasgressors."

(Al-Maidah-47)

It is the consensus among the interpreters of Qur'an and Muslim jurists that any Muslim who legislatively innovates, or enacts laws inconsistent with what God has revealed, enforcing his own laws while renouncing the revealed ones—unless he believes that his innovated or self-imposed laws are a correct interpretation of God's revelation—would be classified under one of the above categories. For example, if a ruler does not apply the Islamic penalty for theft or slander or adultery, preferring the judgments of man-made law, such a ruler would be considered definitely an unbeliever. If a ruler fails to apply Islamic jurisprudence for reasons other than disbelief, he is considered a wrongdoer, and if, as a result of neglecting Islamic jurisprudence, he violates a human right or overlooks a principle of justice and equality, he is than considered a rebel.

Fifth : God made belief in Him conditional on accepting the judgment of His Prophet in all issues of difference that may arise among Muslims, provided that such acceptance is not accompanied by grudge and resentment, but is coupled with submission and conviction. God declares :

"But no, by your Lord, they cannot become true believers until they seek your arbitration in all matters on which they disagree among themselves, and find not the least vexation in their hearts over what you have decided, and accept it in willing submission."

(An-Nisa-65)

Sixth : All that contravenes Islamic jurisprudence is forbidden to Muslim, even if it is commanded by the sovereign, whatever his authority may be. This is

because the legislative right of the ruling authority is subject to the condition that its results must accord with the general principles and legislative spirit of Islamic jurisprudence. If the sovereign takes liberties by exceeding his limits, his judgment does not transmute Divinely prohibited laws into permissible ones, nor would it justify a Muslim in adopting these laws. On the contrary, it becomes incumbent upon every Muslim to disobey such laws that allow the prohibited thing and to abstain from applying or executing them, because allegiance and obedience to any human ruler is not absolute. Obedience is due only within the limits prescribed by Allah and his Holy Prophet.

"Believers ! Obey Allah and obey the Messenger, and those from among you who are invested with authority; and then if you were to dispute among yourselves about anything refer it to Allah and the Messenger." (An-Nisa-59)

"And in whatsoever you differ, the decision thereof is with Allah." (As-Shura-10)

The scope of obedience due to rulers is clearly determined in the Traditions. The Prophet *Sallallahu Alaihi Wasallam* says : "No obedience shall be observed to those who command disobedience to God." He said as well : "Obedience is due only in good deeds." And further : "you should not obey him who commands you to do that which is prohibited."

The Companions of the Prophet, Muslim scholars and jurists are unanimously of the opinion that there is no claim of allegiance to the ruler unless his commands are issued for the purpose of promoting obedience to God; that the ruler is not entitled to any allengiance if he commands disobedience to God; that permitting what is unanimously considered to be prohibited—such as adultery, consumption of alcohol, foregoing Islamic penalties, blocking the execution of Islamic jurisprudence and authorizing what God

forbids—makes such a ruler a disbeliever and a condemned apostate. Accordingly, revolting against an apostatizing ruler becomes a duty on Muslims, and the smallest degree of rebellion against him is to at least disobey those orders of his which are not compatible with Islamic jurisprudence.

Seventh : The provisions of Islamic jurisprudence are indivisible and inseparable. It is for this reason forbidden to Muslims to accept the application of some of its provisions while dropping others. We have dealt with this point and substantiated it above.

These are some facts drawn from Islamic principles, and some quotations from the Qur'an and the Traditions which portray the real attitude of the Muslim who understands and believes in his religion. This is an example of what every Muslim should observe and act upon. Laws which were originally enacted to protect creeds and beliefs do vehemently violate these creeds, and degenerate people once they provide for the imposition of any act that transgresses the principles of Islamic jurisprudence.

□□□

CHAPTER II

MUSLIMS' KNOWLEDGE OF THEIR JURISPRUDENCE

The knowledge Muslims possess of their jurisprudence differs according to their circumstances and education. They may be divided into three groups in this regard. The first is the uneducated. The second is those who received European education, and the third comprises those who received Islamic education. We proceed to discuss each group separately.

The Uneducated

This group contains the illiterate and those who have such a small amount of education that they have difficulty in understanding independently ideas submitted to them as well as inability to give a correct opinion about those ideas. Individuals within this group do not know anything about Islamic jurisprudence except superficial information about the rituals of worship, in imitation of their fathers, fellowmen and spiritual leaders. It is quite rare to find among them one who performs his worship as an expression of reliance upon his own study and personal information.

Unfortunately, the Muslim majority can be classified under this group, a possible 80% majority of the total Muslim population in the world. These individuals are greatly influenced by the directions of the educated, whether they are educated on European or Islamic lines. However, they are more inclined to listen to the Islamically-educated in matters related to religion, since those are expected to be more knowledgeable than others about such issues. But when the people cannot comprehend the relationship between a certain issue and Islam, they follow the lead of those who have a European education.

It would be quite feasible for Muslim jurists to take hold of the sentiments of this group and guide it towards the right way, and convince them that all matters in this life are related to Islam, and that their belief is never complete unless all secular affairs are treated on the basis of, and according to, Islamic jurisprudence. Sadly, the learned Muslims in most of the Islamic countries are inconsiderate of these people with their vast numbers, leaving it to them to grope about in ignorance, imagining that they are following the right way when in reality they are astray and in deviation from it. In fact, the masses are misled by the silence of those who are custodians of Islamic teachings, and by their negligence in efficiently advocating its mission.

The European-Educated

This group comprises most of the educated individuals in Islamic countries. Their majority have received secondary education and there is a large number of those who have higher education, among whom are judges and lawyers, medical doctors, engineers, educators, administrators and politicians.

Members of this group, being educated in European fashion, know no more about Islamic jurisprudence than the average Muslim who learns about his religion from his environment. Their majority may be expected to know more

about the rites of Greek and Roman mythology than about Islam and its jurisprudence. Very few of the highly-educated people within this group have made special studies in Islamic jurisprudence or other Islamic disciplines. Even those few who have done so, made their studies very limited and superficial; therefore, one hardly finds in this group any people who understand the real spirit of Islam or who have a good grasp of the basic principles of Islamic legislation.

Those educated in Europe possess little knowledge of Islam and its jurisprudence but are the members of Islamic societies and attempt to dominate and direct the destiny of Islam in every country. Those are the same ones who ostensibly represent the religion and realm of Islam in international conferences.

But in fairness, we must admit that though most of them are ignorant of Islamic jurisprudence, they are nevertheless inclined toward religion. They do enshrine within their hearts a deep belief and do perform their acts of worship according to the best of their knowledge. While their negligence is not overt, it is yet true that they make little effort to refer to Islamic juristic books for the purpose of increasing their knowledge. Perhaps, this is because research in these books is difficult for those not possessing long experience with Islamic studies. These books are written in the style in vogue with authors a millennium ago. They have no indices to facilitate reference and they are exhausting when one attempts to revise a particular subject or find answers to questions. The reader must go through the books, chapter by chapter, till he meets with what he is after. In the meantime, he may give up hope of ever finding what he wants, only to discover it accidentally in the least-expected place. Readers may pursue these juristic books and feel unable to grasp their import, owing to their ignorance of technical juristic terminology and the basic principles of this science. I know personally of many who made earnest efforts to study Islamic jurisprudence, but failed to

understand it because they got lost among a multitude of texts and comments, margins and explanation. Had they found books written in modern form, they might have benefited themselves and others from their study. The European-educated group entertain some fantastic assumptions about Islamic jurisprudence. Sometimes they become ridiculous, as when they claim that Islam has nothing to do with the government and the state, or when some opine that Islam is a religion and a state as well, but its jurisprudence does not fit the present secular state of affairs because certain of its injunctions were meant to be temporary, and thus cannot be applied to contemporary contingencies. Others presume that Islamic jurisprudence is indeed appropriate for our era, that its injunctions are permanent, yet we should not apply some of these judicial decisions lest they should antagonize the foreign powers! Another faction alleges that Islamic laws derive more from the views of the jurists than from the Qur'an and the Traditions.

These kinds of allegations are the most common yet baseless, uttered by individuals who are ignorant of Islamic jurisprudence. This ignorance itself is sufficient to nullify their assumptions and judgments, rendering their opinions but insignificant insinuations and never certitudes, mere proofless allegations.

The obvious asininity of their allegations stem from two factors: **First**, their ignorance of jurisprudence, and **second**, the influence of European education on them and their vain naivete in applying their information about man-made laws to Islamic jurisprudence. Nothing convinces more of the total fallacy of their arguments than the blatant contradictions among their exponents (as some assumptions are diametrically opposed to other) because what is held to be obvious by one camp is excoriated as of doubtful validity by another. We shall refute these allegations hereinafter, criticizing each of them separately.

Islam & Politics

Some of those who received European education allege that Islam is only a religion and religions (being a relationship between the individual and God) have nothing to do with the government and with the statecraft. Yet, if you ask them "Where do you find such an opinion in the Qur'an and the *Sunnah*?" they become astounded and dumbfounded. This is because the only justification they can give for this idea is what they have learnt from European history and philosophy; primarily, that Church and State must be kept quite distinct from one another. They have been affected so thoroughly by their studies that they believe the European model is applicable in any country and under any social order. If they would apply their mental faculties more astutely, they would easily discover that the institutions initiated by men, including the system of European education, cannot be given precedence. Rather, the Islamic doctrine itself is what must be taken as the final word in this regard. If this Islamic doctrine discriminates between religion and secular affairs, then the allegations of such people would be justified. But if it combines both religion and secular affairs, mixes worship with problems of military defense, and identifies the Mosque with the Government House, then their allegation, being mere flimflam and fabrication, stands refuted.

Some years ago, I met some young men who had finished their legal studies in Egypt. We were talking about Islam and jurisprudence when I discovered that they did believe that Islam had nothing to do with statecraft and politics. I blamed them, as men of law, for taking such an attitude without any evidence from Islamic injunctions. One of them interceded : "Why do not you give us an injunction from the Qur'an which proves that Islam comprises political and spiritual affairs simultaneously." I understood what he was aiming at and retorted : "Would not you be satisfied with an injunction from the *Sunnah* ?" "No," he rejoined,

"because Qur'an is the constitution of Islam." I looked at his colleagues and I could see that they were of the same opinion. I was amazed to see these young men believing so deeply in the Qur'an while they were shamefully ignorant of its contents. I felt sorry for these Muslims whose ignorance of their Qur'an led them to deny two of its most obvious principles. First, that Islam treats political and religious matters as a unitary aspect of life and second that the revered *Sunnah* of God's Holy Prophet is as binding on each Muslim, male or female, as the Qur'an.

These young Muslims were not aware that in the Qur'an there are provisions stipulating what punishment must be pronounced against the murderer, the rebel, the robber and the slanderer. God says :

"Believers ! Retribution is prescribed for you in cases of killing.."
(Al-Baqarah-178)

"It is not for a believer to slay another believer unless by mistake. And he who has slain a believer by mistake, his atonement is to set free from bondage a believing person and pay blood-money to his heirs."
(An-Nisa-92)

"Those who wage war against Allah and His Messenger, and go about the earth spreading mischief—indeed their recompence is that they either be dove to death, or be crucified, or have their hands and feet cut off from the opposite sides or be banished from the land."
(Al-Maidah-33)

"As for the thief—male or female—cut off the hands of both."
(Al-Maidah-38)

"The woman and man guilty of adultery (or fornication) flog each one of them with a hundred stripes."
(An-Nur-2)

"As for those persons who charge chaste woman with false accusations but do not produce witnesses, flog them with eighty stripes and never accept their evidence afterwards."
(An-Nur-4)

Besides, there are numerous Qur'anic verses prohibiting a large variety of crimes and specifying their respective penalties either determinately, as in the case of

apostasy, or indeterminately, as in the case of slander and dishonesty.

Thus, there are specified crimes prohibited and penalized by explicit provision in the Qur'an. There is no doubt that crimes and penalties are part of the machinery of statecraft and government affairs, but not—as some believe—a purely religious matter. If Islam does not combine religious and state affairs, the Qur'an would not have featured verses such as those quoted above. And if the Qur'an makes it incumbent on Muslims to adopt and execute these provisions, then it also calls upon them to establish a government and a state which will undertake the practice and application of these texts, an entity that will consider such a duty a part of its essential function.

Moreover, the Qur'an requires that the affairs of government must be subject to counsel and advice. God describes the faithful as those :

"...who (conduct) their affairs by mutual consultation."

(*As-Shura-38*)

And He requires that rulers listen to the voice of the people :

"...and consult them in matters of importance." (*Al-e-Imran-159*)

For Muslim countries to have an advisor system in government implies, *prima facie*, that there must be an Islamic government and an Islamic state. Now, if Islam separates religion from statecraft, it would not have dealt with the problems of the form and function of government so explicitly. Furthermore, the Qur'an requires that the standard of rule must be justice as defined by the Divine Revelation. God says :

"Allah commands you to deliver trust to those worthy of them; and when you judge between people, to judge with justice."

(*An-Nisa-58*)

There is no doubt that establishing justice in human relations is among the most important functions of the State.

But the Qur'an combines both religion and government and commands that the State must rule in accordance with the divine revelation. In addition, the Qur'an imposes on believers the commanding of others to do the right deed and to refrain from doing the wrong deed. God says:

"And from among you there must be a party who invite people to all that is good and enjoin the doing of all that is right and forbid the doing of all that is wrong." (*Al-e-Imran-104*)

"What is right" means all that is required by Islamic jurisprudence, while "what is wrong" encompasses all that is prohibited thereby. Now, if it is an obligation to devote from among the Muslims a band who advocate the enforcement of Islamic law, then the State must be Islamic, otherwise the provisions of the Qur'an could not be made operative in this respect. Here again, the Qur'an treats religious and secular affairs as a unit.

We find religious and secular matters combined within the same Qur'anic verses and dispersed, as well, among various verses. For instance, at chapter VI, verse 151 God says:

"Say to them (O Muhammad !) 'Come, let me recite what your Lord has laid down to you :

- (i) that you associate nothing with Him.
- (ii) and do good to your parents,
- (iii) and do not slay your children out of fear of poverty. We provide you and will likewise provide them with sustenance;
- (iv) and do not even draw near to things shameful—be they open or secret;
- (v) and do not slay the soul sanctified by Allah except in just cause; this He has enjoined upon you so that you may understand."

(*Al-An'am-151*)

This single verse prohibits polytheism, disobedience to parents, homicide, shameful deeds (open or secret), and

the arbitrary, capricious taking of life. It is undoubtedly a blend of moral and mundane affairs.

The Qur'an requires from the state the establishment on its Divine, transcendent bases of all those matters which pertain to both religion and the state. God says :

"These are the people who, if we give them power in the land, will establish Salat (regular prayers), pay the Zakat dues, enjoin what is right and forbid what is evil." (Al-Hajj-41)

This citation is a decisive proof that the ideal state is the one which imposes on its citizens the performance of prayers, payment of the poortax; the one which proscribes what God has commanded to be established and proscribes what He forbade. If this provision is to be applied, then there can be no other alternative than to establish the state, together with government rules and political affairs, on Islamic bases.

In the Qur'an there are numerous provisions which this concise essay cannot relate in detail, concerning matters such as internal rebellions, international disputes, peace and war, treaties and assemblies, business, personal civil status, and so on. For example the Qur'an prescribes a right (duty or tax) to be imposed on the rich for the benefit of the poor, and establishes rights for orphans, the destitute and the wayfarer relative to the public treasury. It provides Divine legislation for all matters that touch upon our social life as well as our faith and worship. It establishes secular affairs on the foundation of religion and morality, utilizing both factors as a means of control over state functions and of orienting both the rules and rulers. The inter-relation between the religious and the secular is so evident in the Qur'an that one may safely affirm that in Islam religion is an expression of the state and the state is an expression of religion.

Nevertheless, those young Muslims who believe in the Qur'an are not aware that the Qur'an ordained that the

sayings and deeds (*Sunnah*) of the Prophet are legislation binding on all Muslims, and that it enjoined the observance and compliance with these sayings and deeds. Even if there were no explicit text confirming this position, Muslims would have applied the Traditions as sacred legislation integral to life, from respectful consideration that the Prophet would not speak of his own desire or human vanity, and because his words were inspired by God, Who said :

"Nor does he (the Prophet) speak of his (own) desire." "It is only an inspiration that is inspired." (An-Najm-3-4)

But the fact is that there are indeed many verses in the Qur'an which ordain obedience to the Apostle of Allah, and deference to his judgement. God says :

"Believers ! Obey Allah and obey the Messenger."

(An-Nisa-59)

"He who obeys the Messenger obeys Allah." (An-Nisa-80)

"Tell people, : If you indeed love Allah, follow me, and Allah will love you." (Al-e-Imran-32)

"And whatsoever the Messenger (Muhammad) gives you, take it, and whatsoever, he forbids you, abstain from it."

(Al-Hashr-7)

"But no, by your Lord, they cannot become true believers until they seek your arbitration in all matters on which they disagree among themselves, and find that the least vexation in their hearts over what you have decided; and accept it in willing submission."

(An-Nisa-65)

"Indeed in the Messenger of Allah you have a good example to follow for him who hopes in Allah and the Last Day and remembers Allah much."

(Al-Ahzab-21)

Second Objection : Jurisprudence Incompatible with Modern Age

Some of the European-educated dogmatize the Islamic jurisprudence does not fit in with our modern age. But, they do not give any specific reasons for such an allegation. Had they said that some particular principle or principles

are not adaptable to our era, for one reason or another, their claim might possess some merit, as it would then have been possible to discuss and show the error of their contentions. But, to stop at saying that the whole body of Islamic jurisprudence is unfit for our times, without giving any valid reason, is a statement entirely unacceptable to any logical and rational mind. Yet, having known that the exponents of such notions are, relative to Islamic jurisprudence, the most ignorant among the educated, one cannot escape the conclusion that their views are predicated upon ignorance and prevarication.

The adaptability of jurisprudence should be decided on the grounds of the intrinsic sufficiency of its principles. There is not a single one of even the lesser principles of Islamic jurisprudence that may be substantiated as unfit or irrelevant, and a perusal of the more salient principles reveals to what extent some Muslims have been carried down dark alley ways of deviation by their own ignorance.

Islamic jurisprudence inscribed unconditional equality between people. God says :

"O man kind ! we created you from a male and female, and made you into nations and tribes, that you may know one another. Verily, the most honourable of you with Allah is that (believer) who is most righteous of you." (Al-Hujrat-13)

And the Apostle (peace be upon him) said : "People are equal (on the same footing) like the dents of a comb; no Arab has an advantage over a non-Arab except by virtue of righteousness and piety." This principle of equality was inscribed thirteen centuries ago, whereas the man-made laws, in which our ignorant friends take pride, did not acknowledge such equality until late in the eighteenth century ! Even today, most European countries and the United States impose debilitating restrictions on their application of this principle.

There is also the outstanding principle of liberty (freedom) which had been established since the early days

as an integral part of Islamic jurisprudence. Under it, freedom of thought, freedom of belief, and freedom of expression are well recognized and even enjoined by many Qur'anic verse, from which we may cite a part :

Tell them : "Observe carefully all that is in the heavens and the earth."
(Yunus-101)

"...and none will grasp the message except men of understanding."
(Al-Imran-7)

"Let there be no compulsion in Religion."
(Al-Baqarah-256)

"Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong."
(Al-e-Imran-104)

The principle of liberty with its three divisions was not recognized by man-made laws until the French Revolution, though the ignorant deny the Islamic jurisprudence the virtue of such precedents and attribute it all to European law.

Absolute justice is one of the basic principles of Islamic jurisprudence. God says :

"Allah commands you to deliver trusts to those worthy of them; and when you judge between people, to judge with justice. Excellent is the admonition Allah gives you. Allah is All-Hearing, All-Seeing."
(An-Nisa-58)

"Believers! Be upholders of justice, and bearers of witness to truth for the sake of Allah, even though it may either be against yourselves or against your parents and kinsmen, or the rich or the poor : for Allah is more concerned with their well-being than you are. Do not, then, follow your own desires lest you keep away from justice. If you twist or turn away from (the truth), know that Allah is well aware of all that you do."
(An-Nisa-135)

This principle was also registered by Islamic jurisprudence from its very inception and was not recognized by man-made laws till the last decades of the eighteenth century.

Such are the three pre-eminent principles on which modern law is founded, and which our jurisprudence had

firmly established more than eleven centuries ago. How then can it be said that man-made laws are "relevant" to our modern age while Islamic jurisprudence, which advocates the same principles and framework, is not ?

Again, Islam had enjoined applications of the principle of mutual consultaion from the time the Revelation was sent down. God says :

"..Who conduct their affairs by mutual consultation."

(Ash-Shura-38)

"...and consult them in affairs (of importance)." *(Al-e-Imran-159)*

Therefore, Islamic jurisprudence preceded man-made law about eleven centuries in establishing this ideal—except in the case of England, where it was recongnized ten centuries after Islam. But the European law did not introduce a novelty when it provided for parliamentary representation (as an example of applying the principle of mutual consultation); they merely took their impetus from where Islamic jurisprudence ended.

Further, Islam, since its early revelation, had restricted the powers of the chief of state, characterizing him as duty bound to represent the public and responsible for his wrong actions. Accordingly, both the rulers and the ruled are equal before its provisions. Because the first are earlier limited in their actions by these provisions they have no inequitable advantages over the latter. Both are on the same footing in accordance with the principle of equality.

Since Islamic jurisprudence comprised all these principles eleven centuries in advance of European law, how can it be alleged that this jurisprudence is incompatible with our present age ?!

Besides, Islamic jurisprudence prohibited the drinking of alcohol and permitted divorce. God declares :

"There will be no blame on those who believe and do righteous deeds for whatever they might have partaken (in the past) as long as they refrain from things prohibited, and

persist in their belief and do righteous deeds, and continue to refrain from whatever is forbidden and submit to divine commandments, and persevere in doing good, fearing Allah, Allah loves those who do good." (Al-Maidah-93)

"Divorce can be pronounced twice : then, either honourable retention or kindly release should follow." (Al-Baqarah-229)

Man-made legislation never recognized the benefits accruing from the permission of divorce and prohibition of intoxicants except in the course of the recent century. Some of these laws completely prohibits intoxicants, others impose partial prohibition on them. How, then, could these laws deriving from jurisprudence be considered fit while jurisprudence itself is considered unfit ?

Islamic jurisprudence is the first system of legislation that established viably the theories of social cooperation and social solidarity. God says :

"...Help one another in acts of righteousness and piety, and do not help one another in sin and transgression."

(Al-Maidah-2)

"...And those in whose wealth there is a known right for the beggars who ask and the unlucky who has lost his property..."

(Al-Ma'arif-24-25)

"(O Prohhet !) Take alms out of their riches and thereby cleanse them and bring about their growth (in righteousness.)"

(Al-Tawbah-103)

"The alms are meant only for the poor and the needy, and those who are in charge there of, those whose hearts are to be reconciled, and to free those in bondage, and help those burdened with debit, and for expenditure in the way of Allah and for the wayfarer. This is an obligation from Allah. Allah is All-knowing, All-wise."

(Al-Tawbah-60)

"What Allah gave as booty to His Messenger from the people of the townships—it is for Allah, His Messenger, the kindred, the orphans, the poor and the wayfarer, in order what it way not become a fortune use by the rich among you."

(Al-Hashr-7)

The two above-mentioned concepts have been known by our jurisprudence for more than thirteen centuries, whereas the non-Muslim world was hardly aware of them till the present century, and they are yet but partially applied therein.

Islamic jurisprudence prohibits monopolistic practices, exploitation of authority, bribery and corruption. The Prophet has said : "The monopolizer is surely a sinner." And Allah says :

"Do not usurp one another's possessions by false means, nor proffer your possessions to the authorities so that you may sinfully and knowingly usurp a portion of another's possessions." (Al-Baqarah-188)

These lofty ideas were not accredited by man-made laws except very lately.

Islamic jurisprudence strongly prohibits the commission of felonies and shameful vices, whether in public or in secret, sinning and harassment beyond all bounds. God says :

"Tell them (O Muhammad !) 'My Lord has forbidden indecent acts, whether overt or hidden; all manner of sin; wrongful transgression,..." (Al-A'raf-33)

At the same time, jurisprudence approves of exhortation to good deeds, enforcing what is right and forbidding what is wrong.

"And from among you there must be a party who invite people to all that is good and enjoin the doing of all that is right and forbid the doing of all that is wrong." (Al-e-Imran-104)

Such principles as these, long embodied in Islamic jurisprudence, are the ideal that humanity searches for and dreams of achieving. How could the one code of legislation whose principles enshrine the very ideal which contemporary humankind earnestly seeks fail to be relevant to our era ? If we peer into the humanitarian, social and legal conventions, prevailing in our age and of which people are proud, we find each and every one of these principles

included in the best possible manner in the Islamic jurisprudence.

It now becomes evident that the allegation of inappropriateness on the Islamic jurisprudence is an assumption founded on and caused by profound ignorance of that jurisprudence, is having no support in fact. The only excuse one may seek for the exponents of this charge is that they have been taught that old laws and legislation were based on obsolete principles which are unacceptable to our modern age. They have taken this ambiguous statement for a general rule, applicable also to Islamic jurisprudence, which they consider to be an "old" law and an "old" legislation. They have never attempted to appreciate the substantial difference between Islamic jurisprudence and man-made law.

Third Objection : Some Provisions are Partly Temporary

Some of those who received European education are of the opinion that Islamic Jurisprudence is qualified to serve the needs of the present age, but for certain provisions which were originally meant to be of temporary usage. By such they mean certain criminal provisions, particularly the penalties that bear no similarity to those of man-made laws—for example, stoning to death and chopping off of limbs. But they can provide no proof whatever to establish that such Islamic provisions are anachronistic, and all that they proffer is purely conjectural. It is only because they find no similar provisions in their laws that they try to invalidate the influence of Islamic law by this unfounded allegation. Now, if the man-made laws were to include comparable penalties, these people would change their minds and would declare the provisions of Islamic law to be permanent !

Had these Muslims correctly understood Islam, they would have known that its precepts are permanent, not temporary, and that what was not abrogated during the life

of the Prophet cannot be abrogated till the Day of the Hereafter. Just before the death of the Apostle the Qur'an revealed that the whole structure of Islam was complete and not susceptible to addition or abrogation thereafter, God said :

"This day I have perfected for you your religion, and have bestowed upon you My bounty in full measure, and have been pleased to assign for you Islam as your religion."

(Al-Maida-2)

If we accept the concept of temporary provisions in some circumstances, the same can apply also to other circumstances, and the whole structure of Islamic jurisprudence would be demolished, leaving the application of any of it to the whimsical judgments of individuals.

Fourth Objection : Some Provisions are Inapplicable

Those who contend that some of the Islamic provisions are not applicable contradict their own belief that all the provisions of jurisprudence are to be permanent in nature and application. However, they are of the view that certain of the penal—specifically, stoning to death and cutting off hands—cannot be executed in our days owing to the weakness of Muslim states where some foreigners live and refuse to be subjected to these penalties (or at least their governments would object to the imposition of such penalties upon their citizens). The champions of this view; in fact, are inclined not to apply the Islamic laws for the fear of foreign indignation. But such a attitude is incompatible with Islam. God says :

"....So do not fear men but fear Me, and do not barter away My signs for a trivial gain. Those who do not judge by what Allah has revealed are indeed the unbelievers." (Al-Maidah 44)

Here we should like to draw attention to the view of many Muslim jurists who do not necessarily subject non-Muslims to stoning or chopping of hands in cases of adultery or theft. We do not see why this view cannot be accepted. However, it must be stressed that the penalty of stoning is

largely symbolic, as it is extremely difficult to prove adultery by witnesses, as required by Islam. In all cases of adultery committed during the days of the Prophet and the four Khalifas, the crime's punishment was instituted by confession, but never by witnesses. Punishable adultery cannot be proven except by either clear voluntary confession, or four righteous witnesses who do actually and physically observe the act of sexual intercourse. This, of course, would be an extremely rare case. It is also rare to find, nowadays, that conscientious believer who would voluntarily confess to having committed adultery and persist on in his confession so as to be stoned to death.

Fifth Objection : Islamic Jurisprudence Dependent on Jurists' Views

Among the Western-educated are those who believe that Islamic jurisprudence is primarily the result of juristic innovation. If one submits to them an Islamic theory of jurisprudence, that was unknown to mundane jurisprudence till late, they would express their astonishment at the Muslim jurists who could reach levels of judicial competence in the seventh and eight centuries that other jurists could not reach or conceive of until the nineteenth and twentieth centuries ! One of them once told me that he believed the Muslim jurists were superhuman, because they could think of matters thirteen centuries ahead of human conception.

But those who believe that Islamic jurisprudence is the invention of jurists are undoubtedly as mistaken as those who believe that those jurists themselves were capable of preceding human thought. The correct viewpoint is that Muslim jurists (despite their vast erudition and profound reflection) did not really introduce novelties from their own imagination, nor were they above human standards with respect to their meditative faculties. The fact is that they found within their grasp a system of jurisprudence Divinely-enriched with theories and comprehensive principle, and

they explained and analyzed them to the fullest. They did nothing more than what any jurist and genuine thinker would try to do by collecting all the available data and assigning to each theory what is relevant to it and tabulating under each principle what belongs to it. If there had been any innovation or precedence of thinking, it would have been the innovation of Islamic jurisprudence which was itself ahead of human rational development, and which revealed the most perfect theories for the purpose of guiding human beings towards exaltation and perfection by raising them to its elevated standards.

Muslim jurists did not invent the theory of absolute equality, nor that of vast liberty or comprehensive justice, but they extracted them from the Qur'anic texts and related Tradition. We have already mentioned some of these texts and do not feel like repeating these again. Muslim jurists did not anticipatively require writs in civil obligations while accepting witness in commercial matters, but this was set down in the text of the Qur'an :

"Believers ! Whenever you contract a debt from one another for a known term commit it to writing....whether it be small or large... if it be a matter of buying and selling on the spot, it is not blameworthy if you do not write it down..."

(Al-Baqarah-282)

Muslim jurists did not autonomously initiate the theory of nullifying contracts imposed by force or the theory of the debtor's right of dictating the terms of contract, but these were revealed by the Qur'an. God says :

"...Let him write, and let the debtor dictate; and let him fear Allah, his Lord, and curtail no part of it. If the debtor be weak of mind or body, or incapable of dictating, let his guardian dictate justly..."

(Al-Baqarah-282)

They have not innovated the theory of contingencies or what we term "theory of altered circumstances," but they have derived it from the Qur'anic verses :

"Allah does not lay a responsibility on anyone beyond his capacity."

(Al-Baqarah-286)

"...He has clearly spelled out to you what He has forbidden you unless you are constrained to it."

(Al-Ana'm-119)

Jurists did not set down the theory of non-responsibility owing to constraint and compulsion, but the Qur'an did :

"Who so is forced to disbelieve after believing, while his heart is convinced of the Faith (he shall be absolved)"

(An-Nahl-106)

"...there shall be no sin upon him who is constrained (to eat them) even though he neither covets them nor exceeds the indispensable need."

(Al-Baqarah-173)

The Prophet has said : "My people have been forgiven for (unintentional) error, forgetfulness and that which they have been forced to do."

The jurists were not the ones who originated the theory of excluding the minor, the insane and the asleep from penalization, but this was established after the Prophet's dictum ; "The pen (meaning judgment) is withheld for three : the child till maturity, the asleep till he awakes and the insane till he gains his sanity."

The theory of criminal responsibility was not invented by clever jurists, but was established by the Qur'an. God says :

"And no bearer of burdens shall bear another's burden.."

(Al-Fatir-18)

The Prophet said : "Man cannot be condemned for his father's or his brother's crime" and said to Abu-Rimtha and his son : "You cannot be taken for his crime nor he for yours."

Muslim jurists did not of themselves differentiate between the provision bearing on accidental and premeditated deeds, but these were cited in the Qur'an :

"It is not for a believer to slay another believer unless by mistake. And he who has slain a believer by mistake, his

atonement is to set free from bondage a believing person and to pay blood-money to his heirs." (An-Nisa-92)

"Believers ! Retribution is prescribed for you in cases of killing..." (Al-Baqarah-178)

"...And there is no sin on you if you make a mistake there in, except in regard to what your hearts deliberately intend."

(Al-Ahzab 5)

We can hardly find any theory or general principle that has not been established by a text from the Qur'an or the Traditions. The jurists did no more than to explain these theories and principles, clarifying the conditions under which they are applicable and the ramifications thereof. They were invariably working within the framework of Islamic jurisprudence and confining themselves to its spirit and methodology. They also exerted a great effort toward relating the inferences and elements of jurisprudence to their original principle and expounding the sort of provisions applicable thereto, especially since jurisprudence did not provide detailed texts for administering such inferences and elements under all possible circumstances.

This is the verdict of realities and facts against the allegation that Islamic jurisprudence is the fabrication of jurists—a grave mistake no doubt occasioned by a faulty, untenable analogy between Islamic legislation and ordinary jurisprudence. It is only the latter which comprises laws wholly invented by jurists before they became binding provisions and legislation.

I wish these gentlemen would read something about the Zahiriya School. The jurists belonging to that School do not recognize any source of Islamic jurisprudence other than the Qur'an, the Traditions and unanimity. They reject even analogy and the views of any companion as sources of jurisprudential precedent. Even though the *Zahiris* discarded indirectly-quoted Tradition, yet they could find an explicit text in the Qur'an and confirmed Tradition as support

for every theory and every principle which they accepted. I believe that this attitude by itself is sufficient to convince our friends of their erroneous views about Islamic jurisprudence.

The Islamically-Educated

This group consists of persons who have received collegiate and secondary Islamic education. While not few in number, they are less than those who received European education. Nonetheless, this group has a substantial influence over the Islamic masses, especially in matters related to Islam. However, this group does not wield any political influence and the most eminent of its leaders hardly assumes any governmental functions other than preaching and judicial posts in courts of general session.

Before the introduction of European law in Muslim countries, this group had full political powers. But the new conditions, consequent upon the introduction of European law, pushed them into a cornered position, and their powers were gradually eroded till members of this group became devoid of authority. They remained in this helpless state for so long that they gradually became accustomed to their new "status" and the majority of them did not resent this condition. This was due mainly to their inability to revolt against or change their lot, rather than to their acquiescence or willingness to accept the change.

The Islamically-educated consider themselves, and are considered by Muslims, responsible for Islam, as they are supposed to be the most cognizant of its provisions and rules and, as its leaders, the men most capable of defending the religion. Some are of the view that events have proved that this group has failed more than once to defend the Faith, and that this failure was responsible for the incursion of the European law that now prevails in Islamic countries. This led to a freeze on the study of Islamic jurisprudence for generations, until the time came when people hardly

knew anything about their religion except those matters related to rituals of worship and personal status. Conditions degenerated to the extent that ignorant people believed that the laws then in force were Islamic laws, while the educated believed that Islam was merely "religion," and as such it had nothing to do with politics and statesmanship, containing fit for use by those in authority. No one who knew anything about Islam was left, except those Muslim jurists, to indicate the truth.

If Muslim scholars fail several times to defend Islam, leading to unpleasant but natural and logical consequences, this does not constitute an infamy; but what does defame them is their failure to exert every possible effort and to devote all available time to strive for the sake of their religion. There is no doubt that they have exhausted all their possibilities to this end, but circumstances were not favourable; and no doubt they are still doing their best; struggling hard and hoping for victory at the end of their relentless strife.

In Muslim countries there is presently a generation of those who received a sound Islamic education and who are bent on restoring the lost property of Islam. They are convinced of the righteousness of their cause and they are tenaciously supporting it. Their main drawback is that they are following the tracks of their predecessors : spending most of their time in performing their rituals of worship or preaching to others. Had they enlightened their Muslim brothers and about their abandoned jurisprudence and reminded them of their alien laws which contradicted the legislation and judicial decisions of Islam, they would have done well for themselves and for their religion, and would have spared themselves the pointless strain of a lengthy struggle. Happily, most Muslim countries have some form of democracy in government, and it would be sufficient for the majority of the population to adopt a certain idea to convert this idea after a while into applicable fact.

This new generation is adopting a method of advocating Islam which may be effective in convincing and educating the illiterate, but it is insufficient for convincing those who have received an European education and who are actually those in charge of the public welfare and the governments in Muslim countries. Muslim scholars should have, a priori, exerted their efforts in convincing this group of westernized individuals, and teaching them what they did not know, of Islamic law. If ever those whose minds have been trained to reason had come to know Islam in its reality, they would have been themselves the best and ablest defenders and advocates of Islam.

I should also like to see Muslim scholars explaining to those who received European education, in every case and on every day, the extent of the anomaly between Islamic and European jurisprudence and the judgment of Islam on those who apply non-Muslim laws. We must not forget that those who have received European education are still Muslims, albeit ignorant of certain facts about Islam. But they are well-disposed to learn what they have not known about their religion.

I should also like to see Muslim scholars enabling those who have received European education to study the Islamic jurisprudence, acquaint themselves with its commandments, principles and theories, and to assure themselves of its excellence over man-made laws. They can perhaps achieve this goal by the formation of committees comprising representatives from different schools and factions of Islamic jurisprudential thought. Each committee would collect all the books and writing concerning each school of thought and reduce them to one book edited in modern language, set up and indexed in the modern style. Or, the same aim can be achieved by means of writing new books, in modern language and technique, displaying the Islamic laws and legislation in an attractive manner, with comparative studies of the different Islamic schools of

thought. There would, thus, be a book dealing with commercial matters, another about rent, a third on partnership and associations, a fourth on bankruptcy, and so on.

Further, I should like that Muslim scholars illustrate to the rulers and the legislative bodies the attitude of Islam towards those laws which contradict its provisions, and its verdict on those who enact and enforce such laws. These executives and legislators are, after all, Muslims who hate to deviate from their religion (no matter how slight may be the deviation), but who are ignorant of the provisions of Islamic jurisprudence.

I should like as well that Muslim scholars must see to it that no new laws are enacted without their consultation and supervision and that no new law is decreed that contravenes the laws of Islam.

Ye Muslim scholars : Beware that the only trouble with Muslim countries is the ignorance of those who rule and of the Muslim masses about the provisions and laws of Islam. The only way to correct the situation is to teach them all their Islam, to educate every group by the means to which they are accustomed. No believing Muslim will ever resent learning what he does not know of the teaching of his religion.

Finally, by ascribing ignorance of Islam to the European-educated, it is not my intention to belittle their importance; I am but stating a fact. Personally, I am one of them, and before really studying Islam, I was as ignorant as they are and perhaps more on the extreme in ignoring its jurisprudence. But God ordained that I transform this study into good deeds, revealing to me the extent a person could go astray, riding his ignorance. I do not wish my colleagues and brethren to remain in that negative condition in which I myself was, and for which I repent to almighty Allāh

If I am drawing the attention of our Muslim scholars to the administration of certain specific measures, it is not by way of accusing them of negligence, but it is the counsel which is prescribed by Islam. It is my experience and my association with those who have an European education that made me believe that educating the whole nation in Islam, with sincerity and courage, is most beneficial to the Islamic cause. It is now up to the eminent scholars to adopt my view or to overlook it forever.

I beseech God to guide us all to do what is good for Muslims and for Islam.

Who is Responsible for our condition ?

All Muslims share the responsibility for our present condition and for the actual status of Islam. This responsibility may differ from one group of society to another, but all are responsible for what they suffer ignorance, hideous deeds, non-belief, displacement coupled with impotence and humiliation, poverty and exploitation, colonization and occupation.

Responsibility of the Masses

The masses are responsible for the deplorable condition of Islam today. Islam would not have been where it is now, were it not for the ignorance of the masses toward their religion and their gradual deviation from its teachings, which went so far that they have almost estranged themselves from its tenets, though without being conscious of their drift.

The Muslim masses have been so accustomed to mischievous deeds, agnosticism and atheism that they hardly consider such practices to be anti-Islamic. Or, they believe that Islam does not care nor concern itself with struggling to overcome such aberrations.

However, Islam makes it incumbent on Muslims to learn its teachings, to study deeply and to dedicate some

individuals from among themselves to teach others its principles. God says :

"...Why did not a party of them go forth that they may grow in religious understanding, and that they may warn their people when they return to them, so that they may avoid (wrongful attitudes)?"

(Al-Tawbah-122)

In fact, some devoted groups have consecrated themselves to the task of warning their people and teaching them their religion. But certain Muslim governments then assumed the burden of fighting these groups and barring them from observing Islamic injunctions, hoping by this unwarranted action to gain the sympathy of the colonialists or to comply with the whims of dictators. They thereby joined forces with the enemies of Islam. The masses meekly submitted to the attitude of their governments, when they should have strongly denounced it. In this way the masses took part in suffocating the spirit of Islam and in destroying its advocates.

The Muslim masses have lost their elevated standing, their dignity and their power. They live at present as slaves to those irresponsibly powerful, to imperialism, and to their rulers who despoil the vibrant fibre of life, exhausting their potentialities, debasing their dignity and abolishing their liberties. The defeat of Muslims has always been a consequence of relinquishing their religion, the religion that bestows power, repute and dignity. If ever they turn their faces back to it, they would reverse their condition of impotence and their wounded dignity.

The Muslim masses are pursuing a disastrous course of recklessness : they are unmindful of their religion, their secular affairs, and even their own selves. When they open their eyes to the truth, they will realize that they have dissipated their present lives and lost their prospects of happiness in the Hereafter through their negligence and disregard of what God has ordained and in view of their deviation from their Qur'an.

Responsibility of Muslim Governments

Muslim governments have the greatest share or responsibility for the abasement of Islam and for the inferiority complex and lowliness that afflicted Muslims.

These governments have alienated Islam from secular affairs, imposed on Muslims what God has forbidden to them, and ruled over them in defiance of what God has prescribed.

Muslim governments are driving Muslims towards the sins of Europe but away from the guidance and righteousness of Allah. They are imposing on them man-made laws, denying them the good that derives naturally from the application of their own Islamic jurisprudence.

Muslim governments have violated Islam in matters of sovereignty, politics and administration; transgressed Islamic principles by abolishing liberty, equality and justice; renounced what is prescribed by Islam while discouraging cooperation and compassion among Muslims; endorsed what is proscribed by Islam while they practiced injustice, prejudice, exploitation and feudalism; and finally, they have moulded the Muslim society on corruption, decay, depravity, sinfulness, egotism and oppression.

Muslim governments are barring Muslims from learning their religion, worshipping their God and performing their sacred duties. They are giving allegiance to the enemies of Islam, although Islam forbids the befriending of its enemies and acquiescence to them in matters touching upon the welfare of Muslims.

These Muslim governments have incurred upon their people weakness and humiliation, inflicted on them exploitation and poverty and let loose among them immorality and profligacy.

Responsibility of Heads of State

As individuals, the heads of Muslim states are the people most responsible for Islam and for its decline. If man-

made laws have exonerated them from this responsibility, Islam shall not spare them of the burden answering for every wrong trivial or serious, they have committed. In truth, we have to face these rulers with the realities of life and open their eyes to its facts.

Ye heads of states : You assume the rule and sovereignty over your countries, you wield power and possess the potential to reinstitute Islam to its rightful position. You have inherited legacies contravening Islam from your predecessors, and you chose to live according to these legacies and to establish the foundations of your power on them, whether or not you are aware of violating Islam in this regard. These inherited legacies are the primary element that weakens our Islam and impedes the advancement of Muslims. Beware that the weakness of Islam shall be reflected on you, but its strength would provide a support for you. It is more your own interest to be citizens of a strong nation than to be kings, princes or presidents over a weak state, dominated by a second-rate official of the colonizing country (or those depended on for aid and assistance) who can, by simple order, undermine or influence the machinery of government, appoint or dismiss its officers, shake the throne and intimidate the presidents and the rulers !

Ye heads of states : You are dispersed and divided and it is in your interest to unite your forces. You are antagonizing and fighting each other, and it is in your interest, as well as that of Islam, to cooperate and join hands. It is much better for you, as well as for Islam, that some of you would defer to other Muslim rulers, rather than have all of you submit to the control of foreign imperialists.

You are first and foremost Muslims, so put Islam above everything else. Let it judge within your own selves. Let it be the foundation of your rule and build on it your Islamic states. Do not push yourselves forward as stumbling blocks in the way of establishing an Islamic state, because your

persons are mortal and shall without fail pass away, and there is nothing after death but paradise or Hellfire. No one of you shall be benefited by his kingdom or his fortune or his clans; it is only your good deeds and service to God's cause that count. It is best for you to be remembered by history as rulers who helped in the reinstitution of the Islamic state and the Islamic rule and who did not impede or delay the establishment of this state through tenacious adherence to your proud positions and comfortable affluence, which are unacceptable to Islam and Muslims alike.

The solution to the entire problem does not need more than your determined resolution and strong will to overcome your personal greed. If you possess that resolute power and firm will, you shall conquer and overcome all else, but if you shy off vis-a-vis your ambitions, personal vested interests and the lure of power and pomp, then all Muslims will continue to be divided, humiliated, abject and weak. Then, you and your Muslim citizens will be dominated and demeaned by stronger non-Muslim countries and will be trampled upon by colonizers and vicious imperialists. You and your Muslim citizens will be figureheads and shadows misled and manipulated by the "Big Power" which exploited and ridiculed by spurious sympathizers who well recognize that power lies in unity and that victory belongs to those who possess power. O ye heads of states : Do not cling to you prestigious positions, awesome titles and bejeweled crowns, because this keenness of unqualified sovereigns to remain in power was responsible for the decadence of the muslim world, for curbing the spirit of Islam therein, for splitting it up into weak kingdoms, tiny states and defenseless and helpless principalities. Despite their great numbers, the vastness of their lands, the abundance of their material resources and manpower and the existence of all the elements necessary to success and progress, Muslims have proved to be the weakest people on earth and the most humiliated and least respected by other nations!

If you are overwhelmed by your desires to retain your interests, your posts and your titles and sovereign powers, then you must come together under any circumstances and unite the forces of your countries so that Muslims may become one force and comprise one consolidated nation.

Ye heads of states : Your positions and titles will be of no avail before the Almighty God Who will ask you, as well as your predecessors, about this religion of Islam, which is ignored and neglected in your lands. He will ask you about the Muslims whose unity you have split, whose power you have dissipated, whose nationhood you have ripped asunder, reducing them to a symbol of dissention, exhausted power, debased disparagement and greediness that shames dignified men and that forces them to stoop in abjection.

Ye heads of states : Do not cling to power and authority but remember what Muhammad *Sallallahu Alaihi Wasallam* said : "You shall be keen to withhold power and authority and shall regret it in the Hereafter." "Blessed is the wet-nurse and cursed is the weaner (meanign power is a good means that may lead to a bad end)."

Behold, authority is a trust. He who rightfully grasps it, rendering the obligation due to it, will be saved in the Hereafter. Render the trust to its rightful owner, for God will hold you responsible for it in the Hereafter, and take heed to the Apostle's advice to Abu-Zarr; when this one requested him to appoint him as governor : "O Abu-Zarr, you are meek, it (governorship) is a trust that will be regretted in the Day hereafter and he who takes it will fail unless he rightly assumes it and gives it its due obligations."

The Responsibility of Muslim Scholars

Muslim scholars (ulama) are also responsible for our ordeal and for what has afflicted Islam. They are responsible for the sins and mischieves caused by the colonialists and

imperialists, by the rulers and governments and by the masses who are ignorant of and rebellious against Islam.

These scholars are worthy of such accusation because they support imperialism or at least keep silent before its violence. They occasionally support the non-Islamic rule and compromise with it at other times. They have left the masses in their ignorance of the basic principles of Islam and in their unawareness of the conspiracies forged against Islam.

They have detached Muslims from their religion, because they failed to indicate to the masses the judgement of Islam with regard to colonialists, imperialists, and to governments that aid and pay allegiance to them. As a result, the Muslim masses obeyed the pro-colonialist governments. Islam has been lost due to the silence of Muslim scholars and the masses, by turn, have been put at a state of loss due to the loss of their religion. The masses might have helped in reclaiming the loss because they believed that Muslim scholars would not approve of anything unless it was in conformity with Islamic teachings and God's commandment.

Muslim scholars have closed their eyes, shut their mouths and plugged their fingertips in their ears, forgetting about Islam, and have fallen asleep for centuries while the Muslim people followed them in their somnolence, believing that their Islam was safe and sound, or their scholars (ulama) never would leave kept quiet.

Muslim scholars for long have disregarded their Islam. They have never censured any attitude violating Islam, or tried to repeal and revoke any injunction that ran contrary to the principles of Islam. They have never even convened a meeting to encourage the reinstitution of Islamic jurisprudence.

Rulers have committed felonies, allowed the forbidden, shed blood, raped women, spread mischief and

transgressed the limits enjoined by God, while the scholars never so much as expressed indignation and opposition to such actions. They uttered only the sounds of silence, as if Islam did not require them to invite others to do the good and to forbid what is wrong, and did not make it incumbent upon them to give counsel to the rulers so that they might apply the laws of Islam.

Muslim nations were occupied by rapacious foreign powers but our scholars did not revolt against this aggression, nor did they indicate to the public what the Qur'an and the Traditions have inscribed in regard to fighting the invaders and resisting the forces of occupation and what Islam provided for those who befriended such invaders and colonialists. The Muslim scholars had a duty to boycott the non-Muslim aggressors, but instead became their allies and friends to the extent that they used to celebrate some religious festivities in the residence halls of the representatives of the occupying country!

Man-made laws have been enforced in Muslim countries, though they contradicted Islamic provisions, nullified Islamic commands, allowed what God has prohibited and prohibited what God has allowed. Yet, Muslim scholars were not disturbed by this violation of their religion nor were they perturbed about their own future, though they earned their living at the expense of Islam. They did not even hold meetings to discuss the tragic turn of events relative to their own destiny and the future of their religion.

Adultery and lasciviousness have spread all over, brothels and dance halls have been opened, governments have issued licenses to Muslim women to practice prostitution and people have publicly disobeyed Islam ! Nevertheless, our scholars contained themselves and did nothing more than "regret" such foul deeds.

When (secular) laïc schools which denied religious teaching were established, our Muslim scholars were the

first to send their children to them. When the missionary schools started propagating Christianity and detaching Muslims from their Islam, our dignified scholars sent their daughters thereto, in order to learn foreign languages, dancing and Christianity.

Whenever a government met with a serious problem, it resorted to these quisling scholars, who never failed to bid Muslims to "obey their government" even if this government allowed alcohol, adultery, usury, atheism and mischief, and even if it substituted Islam for popular whims and partisan fancy.

This state of affairs has been proceeding so long that the majority of Muslims foolishly believed that the prevailing conditions and mischief did not violate their standing in Islam. No wonder, the misdeeds and corrupt actions filled our life and efforts to remedy things became almost futile. All these things occurred because of the laxity of Muslim scholars and their licentious attitude toward the application of Islamic jurisprudence.

True scholars are the inheritors of the Prophets, and it is most inappropriate for scholars to take such a flippant attitude toward the legacy of the Prophets. Islam has imposed on them the duty to command people to perform the good deed and to abstain from the wrong and hurtful deed. Who else would assume this task if the scholars decline to assume it?

Ironically enough, the scholars in Egypt have lately found their voices and have broken their hoary silence. They have convened meetings and delivered speeches calling for strikes and mutiny. Was it because of Islam and the enforcement of its jurisprudence? No indeed; they revolted and instigated others to revolt because of their own positions, allowances and salaries and personal vested interests! They issued manifestoes and statements, repeated their convocations and speeches, which were well-

decorated with Qur'anic verses and quotations from the Traditions, to defend their selfish personal interests and to sustain their individual honoraria. They did not do this for the sake of Islam—as if Islam were less important than themselves and its dignity were lower than theirs. It was lamentable to see some of them trying to invoke Islamic sympathies in their meetings and to steer this upsurging revolt towards real Islamic reform, when their colleagues present him, repudiated them and foiled this attempt. It seemed that positive action for the revival of Islam was considered by these scholars as something taboo.

Ye Muslim scholars: You were debased and belittled by nations and governments because you neglected and did not heed your religion.

Ye Muslim scholars: Behold ! Your only dignity derives from that of Islam. Your only power stems from that of Islam.

Ye Muslim scholars : It is nowhere a tenet of Islam that you should withhold your tongues from indicating the laws of God and close your eyes to the enemies of God, who desecrate the provisions of His judicial decisions.

It is nowhere a tenet of Islam that you should teach your students the laws of Islam, but your governments need not apply them.

It is nowhere a tenet of Islam that you should take your stand in the mosques inviting people to good behavior and morality and performance of their rituals, while you leave them ignorant of what Islam has to say about politics, government administration, legislation and justice, social relations, economics and relations with allied and belligerent powers

Why do you not fully educate people in their religion when your profession demands this of you.

Why do you not tell them about Islam's injunctions regarding aggressive occupation and invasion, about those

who support or befriend invaders, and about those who strive and instigate revolutions against such enemies?

Why do you not inform people about what Islam enjoins regarding those who impose on Muslims that contravenes their religion, and whether Islam prescribed for Muslims allegiance to such people and acceptance of their authority, or does it prescribe disobedience to them and challenging their fitness for rule

Why do you not declare to people whether Islam commands a Muslim to obey man-made laws or to renounce them?

Why do you not set clearly before the people the judgment of Islam regarding wealth, exploitation and monopoly, and how to apply its decisions to our present financial and economic conditions?

Why do you not inform people about the Islamic precept that forbids excessive wealth for the few and fatal poverty for the masses?

Why do you not call out full-throatedly the Islamic verdict of doom reserved for those who fight the advocates of Islam and for those who assist the persecutors of those devoted to the cause of Islam?

Why do you not explain fearlessly the Islamic stand toward those who deviate from its standards by initiating perverse practices, and whether Islam orders the faithful to keep silent about these intrusions, or does it command struggling against them and abolishing them?

Why do you not simplify for the people the provisions of Islam concerning counsel and interpretation, and whether each of these should be performed once in a lifetime or whether both are an obligation so long as there is a need for them, that by such means people may be reminded of Islamic laws at every time?

Why do you not eagerly advise people of the ruling of Islam against the fool who demands respect for his own person but refuses to demand respect for Islam?

Ye Muslim scholars : I do not deny that there is among you a small, honorable group who act in accordance with the Book of God and follow its teachings. Nor do I deny that some of you did spare your time, energy and life itself to establish the principles of the Qur'an, without fear or reluctance. But these are few indeed, a group of individuals who would hate to be reckoned as having associated with you. The activities of these few good, benevolent people will not redeem your sinful deeds, nor mitigate the punishment due for your negligence and lasciviousness.

Ye Muslim scholars : Follow the example of this righteous group and trace their steps. Do something for Islam. Enough is your long silence and negative reaction. Only in positive, intrepid action lies your good and the good of your religion.

□□□

INDEX

The Qura'nic verses

AL-BAQARAH		4 : 93	09
2 : 85	12	4 : 135	144
2 : 150-151	12	AL-MAIDAH	
2 : 159-160	12	5 : 2	18, 46, 49
2 : 173	52	5 : 4	14
2 : 174-75	12	5 : 16	03
2 : 178	9, 38, 53	5 : 33	09, 38
2 : 188	47	5 : 38	38
2 : 229	46	5 : 44	12, 49
2 : 256	44	5 : 47	29
2 : 282	51	5 : 48	13
2 : 286	52	5 : 48-50	13
AL-E-IMRAN		5 : 93	46
3 : 7	44	AL-AN'AM	
3 : 32	42	6 : 119	52
3 : 104	40, 44, 47	6 : 151	40
3 : 159	18, 39, 45	AL-A'RAF	
AN-NISA		7 : 3	27
4 : 12-13	10	7 : 33	47
4 : 58	39, 44	7 : 158	13
4 : 59	22, 30, 42	AT-TAWBAH	
4 : 60	28	9 : 33	13
4 : 65	29, 42	9 : 60	46
4 : 80	42	9 : 103	46
4 : 92	38, 53		

YUNUS		AL-QASAS	
10 : 101	44	28 : 50	27
AN-NAHL		AS-SAJDAH	
16 : 106	52	32 : 18-20	10
AL-HAJJ		AL-AHZAB	
22 : 41	41	33 : 5	53
AN-NUR		33 : 21	42
24 : 2	38	33 : 36	28
24 : 4	38	33 : 40	14
24 : 19	09	AL-FATIR	
24 : 23-25	09	35 : 18	52